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SENATE State Admin

Exhibit No. 1

Date 3-23-2011

Bill No. HB 91

Linda McCulloch
Secretary of State

MEMORANDUM

Date: March 22, 2011
To: Chairman Shockley and Vice Chairman Arthun
Cc: Members of the Senate State Administration Committee
Representative Pat Ingraham
From: Secretary of State Linda McCulloch
Re: HB 91

As Representative Ingraham discussed with your committee during executive session on Monday, House Bill 91 is a Title 13 clean-up bill. The Secretary of State routinely submits a similar bill that passes each legislative session, and most recently did so in 2003, 2005, 2007, and 2009.

Each session our clean-up bill is drafted by the elections staff of the Secretary of State's office, and is reviewed by the county election administrators' legislative committee. As in past sessions, the reasons for this routine Title 13 clean-up bill include:

1. Changes to state election laws from previous legislative sessions that may require coordination with current law;
2. Ambiguity in the law that requires clarification so that Montana's election administrators are uniformly implementing Title 13; and
3. Changes in federal election laws due in part to putting into practice processes from the comprehensive Help America Vote Act, signed into law by President Bush in 2002.

Some examples that prompted the most recent clean-up bill, HB 91, are:

- **The implementation of the statewide voter registration database:**
 - Statutes still in place refer to the county election administrators providing the secretary of state with certain information that is unnecessary because of the statewide voter database (13-2-108).
 - Voter registration cards are scanned into the statewide database, making it unnecessary to require a county election administrator to file the original cards by precinct (13-2-112).

- A deadline was needed by which county election administrators must have all voter registration cards entered into the statewide database so that the secretary of state can certify the number of registrants at the close of regular registration (13-2-115).
- Allows a late registrant county-to-county transfer to receive an absentee ballot at the time of registration, as long as the county that originally issued the ballot (because the voter was on the “permanent” absentee list in the previous county) voids it in the statewide database. Because of knowledge gained about the statewide voter registration database, we know that a voter can only be issued one ballot from one county (13-2-304).
- **Administrative practices that need clarification where statute may be unclear – elections staff in the SOS office keep a running list of statutory clarifications, based on questions and suggestions from county election administrators, county attorneys, and the public. These eventually get put into a clean-up bill:**
 - Notice of an election is published in the weeks immediately before the election, not before the close of voter registration (13-1-106).
 - Clarifies that election administrators may open ballot materials to resolve provisional ballots (already allowed in 13-15-302, so needed to be consistent in 13-1-303).
 - Clarifies that a polling place does not have to be “publicly owned”, since requiring a polling place to be owned by a government entity would eliminate a large number of current polling places (13-3-105).
- **Corrections to existing law:**
 - 5-2-406 - this is the only non-Title 13 clean-up, but is necessary because of changes to candidate filing deadlines made in Title 13 in 2009, that were missed in this section of Title 5.
 - 13-13-201 specifies that an absentee voter signs an “affirmation”, not an “affidavit” when they return their absentee ballot (an affidavit typically must be notarized, but no notarization is required when returning an absentee ballot).
 - 13-13-212 changes the word “register” to “absentee list” – incorrect term was used to reference that the list the voter can be removed from and reapply for is the absentee list, not the voter register.

These are just a few examples of the type of clean-up that comprises House Bill 91. We would be happy to clarify any specific proposed statute change if you have further questions. And, as I mentioned yesterday, if an amendment is suggested for the proposed change to 13-38-202 (first day of office for precinct committee people), we have no objections and would be happy to work with Senator Balyeat on an amendment.